



Legal Lot Determination

Handout #41 Revised 2/25/04

What is a legal lot?

A legal lot is a parcel of land that is consistent with the zoning and platting laws that were in place when it was originally created. Zoning standards specify the minimum lot size and dimensional requirements that apply to all properties, depending upon their location. Platting standards specify the type of county review process required to legally create new lots. If a parcel meets the requirements in place when originally created, and doesn't change, it will remain a legal lot, even if the requirements change later.

The majority of parcels in Clark County are legal lots, even those smaller than current zoning requirements. Owners of lots of record are eligible to apply for building permits or other development applications, unless they are prevented from doing so by a court or Growth Management Hearings Board order.

What is the purpose of these requirements?

State law requires that counties and cities have platting review processes and minimum zoning standards in place. However, the particular processes and standards are left up to the local government. State law also prohibits local governments from issuing any permits on illegally created lots.

Platting laws create a review process to ensure that newly created lots have adequate provisions for roads, sewer, water and other services before they are sold. Zoning laws create minimum lot sizes so that development patterns and densities in particular areas are generally compatible. Larger lot size standards in the rural area ensure that the area retains a rural character and that opportunities for farming, forestry, etc., continue to exist as the county grows.

Aren't all parcels for which taxes are paid legal lots?

No, not necessarily. Under Washington law, the County Assessor is required to honor any taxpayer's request to segregate any portion of their property, even if the portion is too small or otherwise inconsistent with land use requirements. After the property is segregated, the Assessor is obligated to treat it as a separate tax parcel. The Assessor does not require compliance with any land use laws.

How can I tell if a particular parcel is a legal lot?

A few shortcuts are as follows: If a parcel has a house or mobile home on it, there will be a legal lot of record if the owner obtained necessary building and/or placement permits, and the parcel hasn't been changed since that time.

If a parcel was part of a subdivision or short plat that was reviewed and approved by the county, and hasn't changed since approval, it is considered a legal lot. If a parcel hasn't changed since 1969, it is a legal lot.

If parcels can't be determined through these shortcuts, they are probably legal lots. The key factor is to know when the parcel was created, and what the zoning and platting requirements were in place at the time of creation.

If the above shortcuts are insufficient to prove a lot was legally created, a check of the sales deed history is required. You, or the seller, may already have previous recorded sales deeds along with other ownership documents. The County Auditor keeps records of all recorded sales in the County. Or, for a small fee, a private title company can provide you with a recorded sales history for any parcel. The Customer Service Center can help explain and identify the issues, but it does not keep records of private sales or transfers.

Can the county tell me if a parcel is a legal lot?

It depends on how much information can be provided about the parcel. You can call or visit the Customer Service Center staff to get free, informal information about a parcel's legal lot status, depending on the time of creation. You can also apply for a formal legal lot determination that will provide a written, binding letter of proof about the parcel's status. In either case, information will need to be provided when the parcel was created.

Are Legal Lot Determination fees assessed on Building Permit Applications?

Yes, on historical lots originally created through tax segregation or other process that wasn't reviewed. Fees will be assessed for placement or replacement of homes or other primary structures. No fee is required for building permits on lots created through a platted land division or other process in which lot status was reviewed. Fees also won't be assessed for home remodels, expansions, or grading permits.

How can I find out what requirements were in place at the time my parcel was created?

Zoning and platting laws have changed over time. The changes listed below may help determine the applicable requirements:

Zoning (the minimum lot size and dimension requirements)

- Prior to 1980, almost all rural areas had a 1-acre minimum lot size.
- In 1980, new rural zones were established ranging from a 1-acre minimum to 20-acre minimum.
- In December 1994, new rural zones were established ranging from a 5-acre minimum to 80-acre minimum.
- Call or visit County Development Services offices for mapping of previous zoning requirements for specific properties.

Platting (the required review process for creating new lots)

- Prior to August 21, 1969, a tax segregation recorded at the Assessor office is accepted as a legal lot.
- After August 21, 1969, creating lots of less than five acres, as part of land divisions of five or more lots, required county subdivision review and approval.
- After July 1, 1976, creating lots of less than five acres, as part of land divisions of four or fewer lots, required county short plat review and approval.
- After April 19, 1993, creating lots of less than 20 acres as part of any land division required county short plat or subdivision review and approval.

What should I do if I'm considering buying a parcel of land?

Although most parcels are legal lots, the status should be determined before purchase. Ask the seller for information about the parcel's status, sales history, previous building permits or county approvals that may have been obtained. You may also want to talk with county staff, or condition the sales agreement on a formal legal lot determination or issuance of a building permit.

Transfer or sale of properties created in violation of land division laws is illegal under state law. If you have purchased property that is not a legal lot, you may wish to consult with an attorney to review your options. In such cases, state law allows you to rescind the sale or seek damages from the seller, including the costs of investigation and legal fees. You may also discuss possible remedial measures with county staff.

What if I already bought a parcel of land that was illegally created?

If your lot is determined to be illegally created (e.g., through a legal lot determination application), you may be eligible for an exception. The county does provide exceptions to the legal lot approval process, if certain criteria are met. There are three types of exceptions that include:

- Innocent Purchaser;
- Public Interest;
- Public Interest (Mandatory); and,
- Public Interest (Discretionary).

Innocent Purchaser: The innocent purchaser exception requires the subject parcel to meet minimum zoning requirements currently in effect or in effect at the time the parcel was created. The current owner must have purchased the property in good faith, and did not have knowledge that the property was divided from a larger parcel after the following dates:

- August 21, 1969, in the case of subdivisions;
- After July 1, 1976, in the case of short plats; or,
- After April 19, 1993, in the case of any segregation resulting in parcels of five (5) acres or larger.

Public Interest Exception, Mandatory: To meet the public interest exception (mandatory):

- The parcel must have been create before January 1, 1995;
- Zoning - The parcel must meet the minimum zoning dimensional requirements currently in effect, including lot size, dimensions and frontage width; and
- Platting – The improvements or conditions of approval, which would have been imposed if the parcel had been established through platting, are already present and completed; or
 - The property owner completes conditions of approval that the planning director determines would otherwise be imposed if the parcel had been established through platting under current standards.
- Preliminary and final submittal plans shall be required where applicable.

Public Interest Exception, Discretionary: For the public interest exception (discretionary), the county may, but is not obligated to, determine that parcels meeting the following criteria are legal lots:

- Zoning - The parcel lacks sufficient area or dimension to meet current zoning requirements but meets minimum zoning dimensional requirements, including lot size, dimensions and frontage width in effect at the time the parcel was created; and,
- Platting – (a) The conditions of approval which would have been imposed if the parcel been established through platting under current standards are already present on the land; or
- (b) The property owner completes conditions of approval that the planning director determines would otherwise be imposed if the parcel had been established through platting under current standards.
- The planning director shall apply the following factors in making a lot of record determination under the discretionary public interest exception.
 - The parcel size is generally consistent with surrounding lots of record within 1000 feet;
 - Recognition that the parcel does not adversely impact health or safety;
 - Recognition that the parcel does not adversely affect or interfere with the implementation of the comprehensive plan;
 - The parcel purchase value and subsequent tax assessments are consistent with a buildable legal lot.

Recognition of legal lot status based on the public interest exception shall be valid for five (5) years from the date of legal lot determination or review in which the determination was made. If a building or other development permit is not sought within that time, the determination will expire. Applications for development or legal lot recognition submitted after five (5) years shall require compliance with applicable standards at that time.

What are the fees for a legal lot determination or exception?

Legal Lot Determination	\$511 plus an additional \$187 for each lot over two
Exception	\$1,571 + the proportional share of allocable fees to the lots in question where the Planning Director determines that additional environmental or plan submittals are necessary. (Please note that this is <u>in addition to the legal lot determination fee</u>)

How can I get further information?

Call or visit the Clark County Public Service Center, Customer Services Center at 1300 Franklin Street, Vancouver, WA (360-397-2375), or the North Clark County Resource Center at 701 East Main Street, Battleground, WA (509-687-7126).

Note: This handout is not a substitute for county code. For more detailed information, please refer to Clark County Code (CCC) Section 40.520.010 Legal Lot Determination

**Public Service Center
Department of Community Development
1300 Franklin Street
P.O. Box 9810
Vancouver, WA. 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011
Web Page at: <http://www.clark.wa.gov>**

<p style="text-align: center;">DEVELOPMENT REVIEW LEGAL LOT DETERMINATION REVIEW SUBMITTAL REQUIREMENTS</p>
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The following checklist identifies information to be included with the Application. All items with a bold underlined space (i.e.,) must be submitted before the application will be considered “**Counter Complete.**” All items with a box to the left must be submitted before the application will be determined “**Fully Complete.**” All bulleted items must be submitted, as applicable, but are not a “Fully Complete” requirement.

At the time of application, only **one copy of the main submittal**, with original signatures, **shall be submitted and bound by a jumbo clip or rubber band.** One copy of any special studies (e.g., wetland, floodplain, etc) **shall be submitted but bound separately.**

1. **APPLICATION FORM** - The Development Review Application form shall be completed and original signed in ink by the applicant.
2. **APPLICATION FEE** - The fee for a Legal Lot Determination shall accompany the application. The check is to be made payable to "Clark County Community Development".
3. **LEGAL DESCRIPTION** - A full and complete LEGAL DESCRIPTION of the property MUST BE SUBMITTED (*available from a Title Company or Surveyor*).
4. **SALES HISTORY** - A sales history of each parcel since 1969 must be submitted, and shall include the following:
 - π Copies of all deeds or real estate contracts showing previous owners or division for the original parcel;
 - π Prior segregation requests;
 - π Prior recorded surveys; and,
 - π Other information demonstrating compliance with the approval criteria.
5. **INNOCENT PURCHASER EXCEPTION INFORMATION (If Applicable)** - Requests for innocent purchaser exception must include a written explanation of the circumstances surrounding the purchase of the property that demonstrates compliance with the innocent purchaser criteria (see CCC 40.520.010F).

DEVELOPMENT REVIEW APPLICATION FORM

(Form DS1000-Revised 12/4/03)



PROJECT NAME:		
TYPE(S) OF APPLICATION (See Reverse Side):		
DESCRIPTION OF PROPOSAL:		
APPLICANT NAME:	Address:	
E-mail Address:	Phone and Fax:	
PROPERTY OWNER NAME (list multiple owners on a separate sheet):	Address:	
E-mail Address:	Phone and Fax:	
CONTACT PERSON NAME (list if not same as APPLICANT):	Address:	
E-mail Address:	Phone and Fax:	
PROJECT SITE INFORMATION: Site Address:		Comp Plan Designation:
Cross Street:	Zoning:	Serial #'s of Parcels:
Overlay Zones:	Legal:	Acreage of Original Parcels:
Township:	Range:	¼ of Section:

AUTHORIZATION

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request. This application gives consent to the County to enter the properties listed above.

Authorized Signature

Date

Assigned at Customer Service Center	CASE NUMBER:	
	WORK ORDER NUMBER:	

APPLICATION TYPES

If you have any questions regarding the type of application being requested, our Customer Service Center will be happy to assist you.

- ☐ Annual Review
- ☐ Appeal
- ☐ Boundary Line Adjustment and Lot Reconfiguration
- ☐ Conditional Use

Environmental/Critical Areas:

- ☐ Archaeological
- ☐ Critical Aquifer Recharge Area (CARA)
- ☐ Columbia River Gorge
- ☐ Forestry + (Moratorium Waiver, Moratorium Removal, Class I, Class IVG or COHP)
- ☐ Floodplain
- ☐ Geological
- ☐ Habitat
- ☐ Historic
- ☐ SEPA
- ☐ Shoreline
- ☐ Wetland

Land Division:

- ☐ Binding Site Plan
- ☐ Final Plat
- ☐ Plat Alteration
- ☐ Short Plat (___ Infill)
- ☐ Subdivision (___ Infill)

Miscellaneous:

- ☐ Addressing
- ☐ Accessory Dwelling
- ☐ Covenant Release
- ☐ Garden Shed Setback Waiver
- ☐ Home Occupation
- ☐ Legal Lot Determination & Innocent Purchasers Determination
- ☐ Non-Conforming Use Determination
- ☐ Reconstruct Letter
- ☐ Sewer Waiver
- ☐ Shooting Range
- ☐ Sign

Planning Director Review:

- ☐ Post Decision
- ☐ Pre-Application Conference
- ☐ Pre-Application Waiver
- ☐ Public Interest Exception
- ☐ Similar Use
- ☐ Temporary Use
- ☐ Other

- ☐ Planned Unit Develop/Master Plan
- ☐ Road Modification
- ☐ Site Plan
- ☐ Variance
- ☐ Zone Change